

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

JOEANN C.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH Nos. 2011120709
&
2011110371

DECISION

Office of Administrative Hearings case numbers 2011120709 and 2011110371 were consolidated and came on regularly for hearing before Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, in San Bernardino California on January 24, 2012.

The Inland Regional Center (agency) was represented by Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs.

Claimant represented herself with the assistance of Janice Hunter and Nadine Webber.

Oral and documentary evidence was received and the matter was submitted on January 24, 2012.

ISSUE

Should the level of claimant's Supported Living Services (SLS) be reduced from the current level of 25 hours per month to 13 hours per month?

FACTUAL FINDINGS

1. Claimant, a 49 year old female, qualifies for agency services based on a diagnosis of mild mental retardation and a history of seizures (claimant's seizures are under control; she has not had a seizure in "many years").

2. SLS consist in large part, of habilitation training. SLS is designed to allow consumers to gain independence by teaching them independent living skills.

3. Agency personnel reviewed claimant's SLS needs by reviewing claimant's records with input from claimant's Consumer Services Coordinator (CSC). Based on the agency's belief that claimant's independence would be enhanced by reducing her SLS hours, an Interdisciplinary Team (IDT) meeting was held. The IDT meeting occurred on October 18, 2011, at claimant's house. In pertinent part, the IPP document that resulted from the October 18, 2011, IDT meeting states:

“AMENDED: On 10-18-11, and [sic] IDT meeting was held at consumer's home. Present were consumer, Joeann C., Independent Living Systems SLS worker, Nadine Webber and Kathryn Davisson, IRC/CSC. Consumer's SLS hours were to be reviewed by the end of October, 2011 to see if the 25 hours per month were needed or if progress had been made on the objectives. CSC went through all four objectives and each one was discussed to see what progress had been made. [Claimant] agreed to reduce Objective 1 from 10 to 4 hrs./mo. Objective 2 from 5 to 4 hours/mo. Objective 3 from 9 to 4 hours/mo. Objective 5 continued at 1 hour/mo. Consumer was in agreement to the reduction from 25 hrs./mo. to 13 hrs./mo. due to improvement of her skill level and independence and signed the 35C. . .” (Exh. 13)

Claimant signed the IPP addendum on October 18, 2011; however, during the instant hearing claimant testified that she did not really understand what was going on and that she disagrees with the proposed cut in the level of SLS services.

4. Claimant had a daughter when she was 16 years old and independently raised her as a single mother. Claimant's daughter is now 33 years old. Claimant is able to budget (her bills are current), she uses public transportation to travel to, among other places, the food bank. Claimant can schedule her own medical appointments, get to the appointments and obtain and take medications. Claimant worked for Goodwill, cleaning office buildings, until she was terminated for testing positive on a drug test. According to claimant's CSC, if claimant “sets her mind to something she can carry it out.”

5. Claimant testified that due to carpal tunnel problems she can not carry out activities, like cleaning house, as well as she used to and she needs help. Claimant testified that she is not familiar with the In Home Support Services (IHSS) program offered through the County and that she has not applied for IHSS.

6. IHSS is a County program that provides in home services to help individuals in claimant's position to clean house and perform household chores. The County is a generic resource that would ameliorate claimant's concerns about limitations in her abilities to perform household duties through provision of IHSS.

7. Claimant's most recent, December 1, 2011, Client Development Evaluation Report (CDER) supports the agency's position that claimant can independently perform tasks and that her SLS hours should be reduced to give her greater independence. CDER scores range from 0-5.00, with 5.00 representing the highest functioning level. Claimant's CDER scores were as follows: "Practical Independence: 5.00; Personal/Social Skills: 4.33; Challenging Behaviors: 4.67; Integration level: 4.67; and, Well being level: 5.00." (Exh. 12)

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4646 provides, in pertinent part:

"It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, *as well as promoting community integration, independent, productive, and normal lives . . .*" (Emphasis added.)

2. Welfare and Institutions Code section 4689, subdivision (a) provides, in pertinent part:

"The department and regional centers shall ensure that supported living arrangements adhere to the following principles:
. . (2) *The services or supports that a consumer receives shall change as his or her needs change* without the consumer having to move elsewhere." (Emphasis added)

Evaluation

3. In the present instance the agency acted on valid data indicating that claimant's need for SLS services has diminished and a reduction of SLS hours to 13 hours per month is appropriate. Welfare and Institutions Code section 4659, subdivision (c), prohibits the agency from purchasing services available from generic resources, including IHSS, "when a consumer or family meets the criteria of this coverage but chooses not to pursue this coverage." As IRC asserted that claimant would qualify for IHSS services, IRC was entitled to consider those generic resources when making its determination. If claimant needs help with her household chores due to carpal tunnel syndrome she is encouraged to apply to the County for IHSS hours.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Claimant's SLS hours are reduced from 25 hours per month to 13 hours per month. Effective the date of this decision the agency shall begin funding 13 hours per month of SLS services.

DATED: February 14, 2012.

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

NOTICE:

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.